

Chapter 1. General Provisions

12002. General Definitions

Unless otherwise specified, the definitions in Business and Professions Code section 19805, supplemented by the definitions found in Chapter 10 of Title 9 of Part 1 of the Penal Code (commencing with section 330), shall govern the construction of this division. As used in this division:

~~(a) "Bureau" means the Bureau of Criminal Identification and Information Gambling Control in the California Department of Justice. For the filing of any reports or forms, Bureau refers to the Sacramento office of the Bureau of Gambling Control.~~

Note to Reader: The Bureau of Criminal Identification is now referred to as BCII. A technical change in the Commission's regulations from "Division" to "Bureau" is being processed. Therefore, these regulations refer to the Bureau of Gambling Control as Bureau.

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(g) "Executive Director" means the executive officer of the Commission, as provided in Business and Professions Code section 19816 or his or her designee. If the Executive Director position is vacant, the "Executive Director" means the officer or employee who shall be so designated by the Commission.

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Authority: Sections 19811, 19823, 19824, 19840, 19841, 19853(a)(3), and 19854, Business and Professions Code; Section 7, Government Code.

Reference: Sections 7.5, 19800, 19805, 19811, 19816, and 19951, Business and Professions Code.

12047. Withdrawal of Applications

A request by an applicant to withdraw the submitted application may be made at any time prior to the final action by the Bureau. The request shall be made in writing to the Commission. The Commission, pursuant to Business and Professions Code section 19869, may deny the request or may grant the request, with or without prejudice.

(a) If a request for withdrawal is granted without prejudice, any unused portion of the background investigation deposit shall be refunded by the Commission.

(b) If a request for withdrawal is granted with prejudice, the applicant shall not be eligible to apply again for licensure or approval until after the expiration of one year from the date the request for withdrawal is granted. Any unused portion of the background investigation deposit shall be refunded by the Commission.

1 (c) If the request for withdrawal is denied, the Bureau shall proceed with the investigation
2 of the applicant and provide a recommendation to the Commission for action on the
3 application.

4
5 **Authority:** Business and Professions Code Sections 19811, 19823, 19824,19840, 19841, 19893, and
6 19951.

7 **Reference:** Business and Professions Code Sections 19859, 19867, 19869, 19880, 19881, 19890, 19891,
8 19951, and 19984.

9 **12048. Abandonment of Applications**

10 At any time prior to final Commission action, the Executive Director may preliminarily
11 determine that the application is abandoned. Such preliminarily determination may be
12 based upon recommendation of the Bureau, failure of the applicant to respond to Bureau
13 or Commission inquiries, or notification by the applicant that the application is no longer
14 being pursued. If the determination is not based upon applicant's notice to the
15 Commission, then notice will be sent to the applicant, with a copy to the applicant's
16 employer by certified mail indicating that unless the applicant contacts the Commission
17 within 30 days from the date of the letter, the application shall be deemed abandoned. An
18 abandoned application cannot be reactivated.

19
20 **Authority:** Business and Professions Code Sections 19811, 19823, 19824,19840, 19841, 19893, and
21 19951.

22 **Reference:** Business and Professions Code Sections 19859, 19867, 19869, 19880, 19881, 19890, 19891,
23 and 19951.

24 25 **12050. Hearing Procedures; Appeal of Denial of or Imposition of Conditions** 26 **on application for license, permit, or request for finding of suitability.**

27 (a) If the Bureau, after an investigation pursuant to Business and Professions Code
28 section 19826, subdivision (a), issues a recommendation to deny, limit, restrict, or
29 condition a license, permit, or finding of suitability, the Bureau shall provide the
30 applicant with a summary of the Bureau's final report which includes a detailed
31 factual and/or legal basis for any recommendation as well as the Bureau's
32 recommendation to the Commission, not less than 30 days prior to the Commission
33 meeting.

34 Any applicant for any license, permit, or finding of suitability for whom Commission
35 staff has issued a recommendation of denial or imposition of conditions shall be
36 given notice by certified mail of the Commission meeting at which the application is
37 scheduled to be heard and the Commission staff recommendation at least 10 days
38 prior to the meeting. ~~Further, the Bureau shall provide the applicant with a~~
39 ~~summary of the Bureau's final report which includes a detailed factual and/or legal~~
40 ~~basis for any recommendation and the Bureau's recommendation, if any, not less~~

~~than 30 days prior to the Commission meeting.~~ The applicant shall be afforded the opportunity to:

- (1) Address the Commission by way of an oral statement at a noticed Commission meeting, and/or may submit documents in support of the application, or
- (2) Request an evidentiary hearing.

(b) If the applicant requests an evidentiary hearing or the Commission elects to have an evidentiary hearing, the Executive Director shall set the matter for hearing pursuant to Business and Professions Code sections 19870 and 19871, or pursuant to Business and Professions Code section 19825 (~~which will be~~ conducted pursuant to Chapter 5 (commencing with section 11500) of Part 1 of Division 3 of Title 2 of the Government Code).

(1) If the hearing is to proceed pursuant to Business and Professions Code section 19825 (Chapter 5 (commencing with section 11500) of Part 1 of Division 3 of Title 2 of the Government Code; California Code of Regulations, title 1, section 1000 et seq.), the hearing shall be before an administrative law judge sitting on behalf of the Commission. Notice shall be effected pursuant to Government Code section 11500 et seq.

(2) If the hearing is to proceed pursuant to Business and Professions Code sections 19870 and 19871, notice shall be effected by the Commission, and the hearing before the Commission shall be conducted pursuant to Business and Professions Code section 19871:

(A) The Bureau or Commission staff or Deputy Attorney General or other representative presenting the case (Complainant) shall provide the applicant, at least 30 calendar days prior to the hearing, a list of potential witnesses with the general subject of the testimony of each witness and shall disclose and make available copies of all documentary evidence intended to be introduced at the hearing and not previously provided, reports or statements of parties and witnesses and all other writings containing relevant evidence, including all evidence made available to the Commissioners. The applicant shall provide Complainant with similar information to be introduced at the hearing and not previously provided at least ten calendar days prior to the hearing. The Commissioners may prohibit testimony of a witness that is not disclosed and may prohibit the introduction of documents that have not been disclosed.

(B) Nothing in this section confers upon an applicant a right to discovery of the Commission's or Bureau's confidential information or to require production of any document or information the disclosure of which is otherwise prohibited by any provision of the Gambling Control Act, or is privileged from disclosure or otherwise made confidential by law. Documentary evidence may be redacted as needed to prevent the disclosure of

1 confidential information. Exculpatory or mitigating information shall not be
2 withheld from the applicant, but may be redacted.

3 (C) Within the guidelines of subsection (b)(2)(A) above, each party shall have
4 the right to call and examine witnesses; to introduce relevant exhibits and
5 documentary evidence; to cross-examine opposing witnesses on any
6 relevant matter, even if the matter was not covered in the direct
7 examination; to impeach any witness, regardless of which party first called
8 the witness to testify; and to offer rebuttal evidence. If the applicant does
9 not testify on the applicant's own behalf, the applicant may be called and
10 examined as if under cross-examination.

11 (D) The hearing need not be conducted according to technical rules of
12 evidence. Any relevant evidence may be considered, and is sufficient in
13 itself to support findings if it is the sort of evidence on which responsible
14 persons are accustomed to rely in the conduct of serious affairs,
15 regardless of the existence of any common law or statutory rule that might
16 make improper the admission of that evidence over objection in a civil
17 action. A presiding officer, which shall be an administrative law judge or
18 an attorney designated by the Commission, shall rule on the admissibility
19 of evidence and on any objections raised.

20 (E) Oral evidence shall be taken upon oath or affirmation, which may be
21 administered by a staff member of the Commission or by a Commissioner.

22 (F) The hearing shall be stenographically or electronically recorded by the
23 Commission.

24 (G) At the conclusion of the hearing, the Commission shall take the matter
25 under submission and may schedule future closed session meetings for
26 deliberation. In taking the matter under consideration, any Commissioner
27 who participated at the hearing shall be allowed to vote by mail or by other
28 appropriate method. Within 30 days of the conclusion of the hearing, the
29 Commission shall issue a decision which complies with Business and
30 Professions Code section 19870, subdivision (c), and shall serve the
31 decision by certified mail on the applicant and on any business entity with
32 which the applicant is associated.

33 (3) At the hearings described in subsections (b)(1) and (2) above, the burden of
34 proof rests with applicant to demonstrate why a license, permit, or finding of
35 suitability should be issued or not conditioned. The applicant may choose to
36 represent himself, herself, or itself, or may retain an attorney or lay
37 representative at his, her, or its own expense. A representative of the Bureau
38 shall present the reasons why the license, permit, or finding of suitability should
39 not be granted or should be granted with conditions imposed. In the event that
40 the Bureau does not present the case, the Commission may seek outside

1 representation or one or more Commission staff members shall be segregated
2 and present the case.

3 (c) If the application is denied or conditions imposed:

- 4 (1) The Commission's decision ~~will~~ shall provide the effective date of the decision
5 and may include further directions as to stay provisions or orders to divest.
- 6 (2) If the denied applicant is an officer, director, employee, agent, representative, or
7 independent contractor of a corporation licensed, registered, or found suitable by
8 the Commission, the denied applicant shall resign ~~pursuant~~ according to the
9 date specified in the decision and shall so notify the Commission in writing.
- 10 (3) If the denied applicant is an officer or director of a corporation licensed,
11 registered, or found suitable by the Commission, the corporation shall
12 immediately remove that person from office and shall so notify the Commission
13 in writing. If the denied applicant is an employee, agent, representative, or
14 independent contractor of a corporation licensed, registered, or found suitable by
15 the Commission, the corporation shall terminate its relationship with that person
16 pursuant to the date specified in the decision and shall so notify the Commission
17 in writing. The denied applicant and the corporation licensed, registered, or
18 found suitable by the Commission shall comply with Business and Professions
19 Code section 19882.
- 20 (4) If the denied applicant is ~~an owner or holder of an interest~~ a general or limited
21 partner in a general or limited partnership licensed, registered, or found suitable
22 by the Commission, the denied applicant shall resign as partner. If the denied
23 applicant is an owner or holder of an interest in a limited partnership licensed,
24 registered, or found suitable by the Commission, the denied applicant and the
25 limited partnership shall comply with Business and Professions Code section
26 19892 and shall so notify the Commission in writing.
- 27 (5) If the denied applicant is a principal in a business entity not otherwise described
28 above which is licensed, registered, or found suitable by the Commission ~~not~~
29 ~~otherwise described above~~, the denied applicant shall resign his or her position
30 within that entity and divest whatever interest is held in that entity pursuant to the
31 timelines and instructions specified in the decision, and shall so notify the
32 Commission in writing. The business entity shall remove the denied applicant
33 from any principal role in the business entity and shall so notify the Commission
34 in writing.
- 35 (6) An applicant denied a license, permit, registration, or finding of suitability, or
36 whose license, permit, registration, or finding of suitability has had conditions
37 imposed upon it may request reconsideration by the Commission within 30 days
38 of notice of the decision. The request shall be in writing and shall outline the
39 reasons for the request, which must be based upon either newly discovered
40 evidence or legal authorities that could not reasonably have been presented

1 before the Commission's issuance of the decision or at the hearing on the
2 matter, or upon other good cause for which the Commission in its discretion
3 decides merits reconsideration. The Commission Chair may delegate to the
4 Executive Director the ~~determination of~~ authority to determine whether to place
5 requests for reconsideration on the Commission agenda or to act on them at the
6 Commission staff level. If placed on the Commission agenda, the applicant
7 requesting reconsideration shall be notified of the date and time of the agenda
8 item. The granting or denial of reconsideration is at the discretion of the
9 Commission. The Commission shall notify the applicant requesting
10 reconsideration whether or not reconsideration is granted or denied within 30
11 days of the applicant's request. If the Commission grants reconsideration, the
12 effective date of the decision shall be stayed or vacated, at the Commission's
13 discretion, while the decision is reconsidered.

14 (d) An appeal of a denial or imposition of conditions by the Commission shall be subject to
15 judicial review under Code of Civil Procedure, section 1085 (pursuant to Business
16 and Professions Code, section 19870, subdivision (e)). Neither the right to petition
17 for judicial review nor the time for filing the petition shall be affected by failure to
18 seek reconsideration.

19 (e) Proceedings to revoke, suspend, or discipline a license, registration, permit, finding of
20 suitability, or other approval shall be pursuant to Chapter 10 of these regulations.

21 Authority: Sections 19804, 19870 and 19872, Business and Professions Code.

22 Reference: Sections 19868, 19870, 19879, 19883, 19892, Business and Professions Code.

25 Chapter 6. State Gambling Licenses and Approvals for 26 Gambling Establishments, Owners, and Key Employees

27 **12348. Mandatory and Discretionary Grounds for Denial of Application for a** 28 **State Gambling License or Key Employee license.**

29 (a) An application for a state gambling license or key employee license shall be denied by
30 the Commission if any of the following apply:

31 (1) The Commission finds that the applicant is ineligible, unqualified, disqualified, or
32 unsuitable pursuant to the criteria set forth in the Act or other applicable law or
33 that granting the license would be inimical to public health, safety, welfare, or
34 would undermine the public trust that gambling operations are free from criminal
35 or dishonest elements.

36 (2) The Commission finds that the local ordinance does not conform to the
37 requirements of Business and Professions code section 19860.

38 (b) An ~~applicant~~ application for a state gambling license may be denied if:

- (1) The Commission finds that the applicant meets any of the criteria for license denial set forth in Business and Professions Code section 19862, subdivision (a).
- (2) The Commission finds that an applicant has attempted to communicate or has communicated *ex parte*, as that term is defined in Business and Professions Code section 19872, subdivision (e), with one or more Commissioners, through direct or indirect means, regarding the merits of the application while the application is pending disposition at the Bureau or the Commission.
- (3) The Commission finds that the applicant's past behavior calls into question the applicant's qualification requirements and considerations outlined in Business and Professions Code section 19856. Examples of past behavior that may be considered include, but are not limited to:
- (A) Convictions which demonstrate a pattern of disregard for the law,
 - (B) A conviction involving gambling or gambling-related activities,
 - (C) A final administrative decision concluding that there was a violation of law involving gambling or gambling-related activities, or
 - (D) A conviction regarding or final administrative decision concluding that there was a violation of campaign finance disclosure or contribution limitations applicable to an election conducted pursuant to Business and Professions Code section 19960.
- (4) The Commission finds that the applicant has, within ten years immediately preceding the submission of the application, willfully or persistently violated any of the following:
- (A) Any regulation adopted by the Commission or Bureau.
 - (B) Any condition, limitation, or directive imposed on a previously held state gambling or key employee license.
- (c) The grounds for denial set forth in this section apply in addition to any grounds prescribed by statute or any grounds that would support revocation under chapter 10 of these regulations.
- Authority:** Sections 19811, 19823, 19824, 19840, 19841, 19850, 19854, 19861, 19870, 19872, 19880, 19890, and 19982, Business and Professions Code.
- Reference:** Sections 19850, 19851, 19852, 19857, 19858, 19859, 19860, 19862, 19863, and 19960, Business and Professions Code.